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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,752	09/17/2001	Reinhard Wagener	1999/G-003	9132

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EXAMINER

POPOVICS, ROBERT J

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 07/07/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,752

Applicant(s)

WAGNER et al.

Examiner

Popovics

Group Art Unit

1724

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 6/9/03
- ☐ This action is **FINAL**
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-27 is/are pending in the application.
- ☐ Of the above claim(s) 1-9, 22 AND 25-26 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 10-12, 14, 17, 23-24 AND 26 is/are rejected.
- ☒ Claim(s) 12-13, 15, AND 18-21 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

1. Applicant's election with traverse of Group II in Paper No. Eight is acknowledged. Applicants have identified claims **10-21,23-24** and **26** as reading on the elected species, i.e., Species I. The traversal is on the ground(s) that "the method [and] the apparatus are closely related to on another and therefore should be examined in a single application." This is not found persuasive because how closely inventions are related is not the standard to be used. Applicant has failed to establish that both groups "relate to a single general inventive concept under PCT Rule 13.1.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 10-11,14,16-17 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Binkley (US 5,106,556). Best illustrated in Figure 8, Binkley discloses the use of a downcomer which is seen to meet the claimed limitations.

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Binkley (US 5,106,556) and Hedrick (US 5,328,592). Claim 24 differs from Binkley as applied above, by specifying a base region of the container to have a conical configuration. It is well known in the art to employ process vessels having a conical base region. Exemplary of this, is Hedrick, who discloses such a conical configuration. In view of this disclosure, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Binkley, by incorporating a conical base section, in order to, for example, facilitate better drainage.

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over .

Binkley, as applied above, does not appear to expressly disclose the use of a plurality of containers, as recited in claim 10. The use of a plurality of sequential/parallel treatment stages in the separation arts is notoriously well known. It is submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made, to employ a plurality of

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sequential/parallel treatment stages, i.e., "containers," to effect better separation (sequential), or to provide redundancy for maintenance, downtime, etc.

Drawings

7. Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office Action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process. The drawings submitted are of poor line quality, failing to comply with 37 CFR 1.84(l):

Character of lines, numbers, and letters. All drawings must be made by a process which will give them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black (except for color drawings), sufficiently dense and dark, and uniformly thick and well-defined. The weight of all lines and letters must be heavy enough to permit adequate reproduction. This requirement applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. Lines and strokes of different thicknesses may be used in the same drawing where different thicknesses have a different meaning.

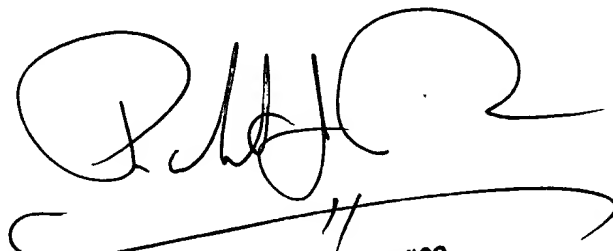
Allowable Subject Matter

8. Claims 12-13,15 and 18-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication should be directed to Examiner Popovics at telephone number (703) 308-0684.

rjp

June 30, 2003



ROBERT POPOVICS
PRIMARY EXAMINER